

CHAPTER 13 PERMITS

[Prior to 12/17/86, Revenue Department[730]]

701—13.1(422) Retail sales tax permit required. When used in this chapter or any other chapter relating to retail sales, the word “permit” shall mean “a retail sales tax permit.”

A person shall not engage in any Iowa business subject to tax until the person has procured a permit except as provided in 13.5(422). There is no charge for a retail sales tax permit. If a person makes retail sales from more than one location, each location shall be required to hold a permit. Retail sales tax permits are issued to retailers for the purpose of making retail sales of tangible personal property or taxable services. Persons shall not make application for a permit for any other purpose. For details regarding direct pay permits, see rule 701—12.3(422).

This rule is intended to implement Iowa Code section 422.53 as amended by 1997 Iowa Acts, House File 266.

701—13.2(422) Application for permit. An application for a permanent permit shall be made upon a form provided by the department, and the applicant shall furnish all information requested on such form.

An application for a permit for a business operating under a trade name shall state the trade name, as well as the individual owner’s name, in the case of a sole ownership by an individual; or, the trade name and the name of all partners, in the case of a partnership.

The application shall be signed by the owner, in the case of an individual business; by a partner, in the case of a partnership, although all partners’ names shall appear on the application; and by the president, vice president, treasurer or other principal officer of a corporation or association, unless written authorization is given by the officers for another person to sign the application.

The application shall state the date when the applicant will begin selling tangible personal property or taxable services at retail in Iowa from the location for which the application is made.

This rule is intended to implement Iowa Code section 422.53.

701—13.3(422) Permit not transferable—sale of business. Permits shall not be transferable. A permit holder selling the business shall cancel the permit, and the purchaser of the business shall apply for a new permit in the purchaser’s own name.

This rule is intended to implement Iowa Code section 422.53.

701—13.4(422) Permit—consolidated return optional. A permit holder procuring more than one permit may file a separate return for each permit; or, if arrangements have been made with the department, the permit holder may file one consolidated return reporting sales made at all locations for which a permit is held.

When a taxpayer makes a consolidated return, forms furnished by the department shall be required to be filed.

All working papers used in the preparation of the information required must be available for examination by the department.

This rule is intended to implement Iowa Code sections 422.51 and 422.53.

701—13.5(422) Retailers operating a temporary business. A person not regularly engaged in selling at retail and not having a permanent place of business but is temporarily selling from trucks, portable roadside stands, concessionaires at state, county, district or local fairs, carnivals and the like shall not be required to hold a permit. These retailers shall request an identification card from the department. The card shall be in a form prescribed by the director and shall be completed and displayed by the retailer to show authorization to collect tax. The issuance of the card by the department shall be dependent upon the frequency of sales and other conditions as each individual case may warrant.

This rule is intended to implement Iowa Code section 422.53(6).

701—13.6(422) Reinstatement of canceled permit. A person who previously held and canceled a permit and wishes to reengage in business in the same county shall apply to the department for reinstatement of the permit. Upon receipt of the proper clearance for previous tax returns, a new permit shall be issued.

This rule is intended to implement Iowa Code section 422.53.

701—13.7(422) Reinstatement of revoked permit. A revoked permit shall be reinstated only on such terms and conditions as the case may warrant. Terms and conditions include payment of any tax liability which may be due to the department. See rule 13.17(422) for a description of the circumstances under which nonpayment of taxes may lead to revocation of a permit.

Pursuant to the director's statutory authority in Iowa Code section 422.53(5) to restore licenses after a revocation, the director has determined that upon the revocation of a sales tax permit the initial time, the permit holder will be required to pay all delinquent sales tax liabilities, to file returns, and to post a bond and to refrain from taxable occurrences under Iowa Code section 422.43 as required by the director prior to the reinstatement or issuance of a new sales tax permit.

As set forth above, the director may impose a waiting period during which the permit holder must refrain from taxable occurrences pursuant to the penalties of Iowa Code section 422.58(2), not to exceed 90 days to restore a permit or issue a new permit after a revocation. The department may require a sworn affidavit, subject to the penalties of perjury, stating that the permit holder has fulfilled all requirements of said order of revocation, and stating the dates on which the permit holder refrained from taxable occurrences.

Each of the following situations will be considered one offense, for the purpose of determining the waiting period to reinstate a revoked permit or issue a new permit after a revocation unless otherwise noted.

- Failure to post a bond as required.

- Failure to file a quarterly return or monthly deposit timely.

- Failure to pay tax timely (including unhonored checks, failure to pay, and late payments).

- Failure to file a quarterly return or a monthly deposit and pay tax shown on the return or deposit timely (counts as two offenses).

The administrative law judge or director of revenue and finance may order a waiting period after the revocation not to exceed:

- Five days for one through five offenses.

- Seven days for six through seven offenses.

- Ten days for eight through nine offenses.

- Thirty days for ten offenses or more.

The administrative law judge or director of revenue and finance may order a waiting period not to exceed:

Forty-five days if the second revocation occurs within 24 months of the first revocation.

Sixty days if the second revocation occurs within 18 months of the first revocation.

Ninety days if the second revocation occurs within 12 months of the first revocation.

Ninety days if the third revocation occurs within 36 months of the second revocation.

A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder, who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code sections 422.53 and 422.58(2) and 1995 Iowa Acts, chapter 115.

701—13.8(422) Withdrawal of permit. After investigation, the department will withdraw a permit under the following conditions:

13.8(1) Upon a determination that the permit holder cannot be located in the state of Iowa and upon failure to obtain service of an order to appear and show cause, after sending the notice by registered certified mail or an attempt to personally serve the notice of the order.

13.8(2) Upon a determination that the permit holder cannot be located in the state of Iowa and upon a determination by the department that a business has been terminated or abandoned by the permit holder, without a request for cancellation signed by the permit holder.

13.8(3) The permit holder has become incapacitated or unable to respond or is deceased and has no duly appointed trustee, guardian or individual holding a power of attorney, executor or administrator.

The withdrawal shall not constitute a revocation of said license, nor shall any penalties imposed for revocation be applicable. A permit so withdrawn shall be reissued in its prior status at such time as any affected permit holder so requests. The proceedings for withdrawal will be in conformity with Iowa Code section 17A.18.

This rule is intended to implement Iowa Code section 17A.18.

701—13.9(422) Loss or destruction of permit. When it becomes necessary to replace an active permit by reason of loss or destruction, the department will furnish a duplicate permit.

This rule is intended to implement Iowa Code section 422.53.

701—13.10(422) Change of location. When a retailer changes business location, the permit shall be canceled and an application shall be made for another permit at the new location.

This rule is intended to implement Iowa Code section 422.53.

701—13.11(422) Change of ownership. A retailer changing its business entity shall apply for a new permit under the name of the new entity. This is required but not limited to such entity changes as proprietorship to partnership, partnership to corporation or any combination thereof.

This rule is intended to implement Iowa Code section 422.53.

701—13.12(422) Permit posting. The permit need not be posted for public view at the taxpayer's place of business. However, the taxpayer must, at all times, keep the permit available for inspection upon request by any department representative.

This rule is intended to implement Iowa Code section 422.53(3).

701—13.13(422) Trustees, receivers, executors and administrators. By virtue of their appointment, trustees, receivers, executors and administrators who continue to operate, manage or control a business involving the sale of tangible personal property or taxable services or engage in liquidating the assets of a business by means of sales made in the usual course of trade shall collect and remit tax on inventory and noninventory items. In *Re Hubs Repair Shop, Inc.* 28 B.R. 858 (Bkrtcy 1983).

A permit of a ward, decedent, cestui que trust, bankrupt, assignor or debtor for whom a receiver has been appointed, which is valid at the time a fiduciary relation is created, shall continue to be a valid permit for the fiduciary to continue the business for a reasonable time or to close out the business for the purpose of settling an estate or terminating or liquidating a trust.

This rule is intended to implement Iowa Code sections 422.42(1) and 422.53.

701—13.14(422) Vending machines and other coin-operated devices. An operator who places machines on location shall hold one permit for the principal place of business, whether the same is located in the state of Iowa or outside the state of Iowa.

This rule is intended to implement Iowa Code sections 422.43 and 422.53 as amended by 1986 Iowa Acts, House File 2471, and Iowa Code section 422.42.

701—13.15(422) Other amusements. Billiard and pool tables, shooting galleries and other similar undertakings operated in a regular place of business owned and managed by the operator shall not come within the provisions of the rule with respect to holding one permit for the entire state. The provision requiring a permit shall not include devices operated at fairs, circuses and carnivals which are temporarily located within the state of Iowa.

This rule is intended to implement Iowa Code chapter 422.

701—13.16(422) Substantially delinquent tax—denial of permit. The department may deny a permit to any applicant who is, at the time of application, substantially delinquent in paying any tax due which is administered by the department or the interest or penalty on the tax. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any tax, penalty, or interest regardless of whether the tax is in any way a liability of or associated with the partnership. If an applicant for a permit is a corporation, the department may deny the applicant a permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the applicant corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. This is in contrast to the situation regarding a partnership.

The local option sales and service tax is a tax administered by the department. Local vehicle, property, whether imposed on centrally assessed property or not, beer and liquor, and insurance premium taxes are nonexclusive examples of taxes which are not administered by the department.

The amount of tax delinquent, the number of filing periods for which a tax remains due and unpaid, and the length of time a tax has been unpaid are the principal, but nonexclusive circumstances, which the department will use to determine whether an applicant is “substantially” or insubstantially delinquent in paying a tax. The department may deny a permit for substantial delinquency. Nonexclusive factors which the department will consider in determining whether substantial delinquency will or will not result in the denial of an application for a permit are the following: whether the delinquency was inadvertent, negligent, or intentional; the amount of tax, interest, or penalty owed in relation to the applicant’s total financial resources; and whether the applicant’s business is likely to survive over the long term if a license or permit is granted. This rule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

The department will deny a permit to any applicant, who is an individual, if the department has received a certificate of noncompliance from the child support recovery unit in regard to the individual, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code subsection 422.53(2) and 1995 Iowa Acts, chapter 115.

701—13.17(422) Substantially delinquent tax—revocation of permit. The department may revoke a permit if the permit holder has become substantially delinquent in paying any tax which is administered by the department or the interest or penalty on the tax. If the person holding a permit is a corporation, the department may revoke the permit if any officer, with a substantial legal or equitable interest in the ownership of the corporation, owes any delinquent tax, penalty, or interest of the permit-holding corporation. In this latter instance, the corporation must, initially, owe the delinquent tax, penalty, or interest, and the officer must be personally and secondarily liable for the tax. If the permit holder is a partnership, a permit cannot be revoked for a partner's failure to pay a tax which is not a liability of the partnership. This is in contrast to the situation regarding an application for a permit. See rule 13.16(422). Also, see rule 13.16(422) for characterizations of the terms "tax administered by the department" and "substantially delinquent" and for a description of some of the factors which the department will use in determining whether substantial delinquency will or will not result in the revocation of a permit. This rule is applicable to tax, interest, and penalty due and payable on and after January 1, 1987.

A revoked permit will not be reinstated if the department has received a certificate of noncompliance from the child support recovery unit in regard to the permit holder who is an individual requesting reinstatement, until the unit furnishes the department with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code subsection 422.53(5) and 1995 Iowa Acts, chapter 115.

[Filed December 12, 1974]

[Filed 11/5/76, Notice 9/22/76—published 12/1/76, effective 1/5/77]

[Filed 1/18/80, Notice 12/12/79—published 2/6/80, effective 3/12/80]

[Filed emergency 7/17/80—published 8/6/80, effective 7/17/80]

[Filed 12/4/81, Notice 10/28/81—published 12/23/81, effective 1/27/82]

[Filed 5/7/82, Notice 3/31/82—published 5/26/82, effective 6/30/82]

[Filed 9/9/83, Notice 8/3/83—published 9/28/83, effective 11/2/83]

[Filed 9/5/86, Notice 7/30/86—published 9/24/86, effective 10/29/86]

[Filed 10/31/86, Notice 9/24/86—published 11/19/86, effective 12/24/86]

[Filed emergency 11/14/86—published 12/17/86, effective 11/14/86]

[Filed 1/23/87, Notice 12/17/86—published 2/11/87, effective 3/18/87]

[Filed 9/24/93, Notice 8/18/93—published 10/13/93, effective 11/17/93]

[Filed 10/20/95, Notice 9/13/95—published 11/8/95, effective 12/13/95]

[Filed 11/14/97, Notice 10/8/97—published 12/3/97, effective 1/7/98]

[Filed 10/30/98, Notice 9/23/98—published 11/18/98, effective 12/23/98]